

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SKY KING SATELLITE, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 23-175
)	
ELITE TECHNICIAN)	
MANAGEMENT GROUP, LLC,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant Elite Technician Management Group, LLC (“ETMG”), reserving all rights, defenses, exceptions and claims and without waiver thereof, hereby removes to this Court the state-court action described in paragraph 1 below pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, on the following grounds:

I. INTRODUCTION

1. Plaintiff Sky King Satellite, Inc., (“Sky King”) initiated this state court action on February 28, 2023, with the filing of the Complaint styled *Sky King Satellite, Inc., v. Elite Technician Management Group, Inc.*, CV-2023-900256 in the Circuit Court of Montgomery County, Alabama. The documents attached hereto as **Exhibit A** constitute all of the records and proceedings from this action in state court, pursuant to 28 U.S.C. § 1446(a) and M.D. Ala. Civ. R. 81.1. (**Exhibit A**).

2. Sky King claims that prior to January 15, 2023, Defendant ETMG entered into a contract with Spectrum/Charter Cable to perform work in Alabama, and that on -or about January 15, 2023, ETMG entered into a contract with Sky King “for the installation of aerial and/or underground construction services”. (Compl., ¶¶ 4-5). Sky King alleges that it provided services

“pursuant to the Contract” from January 16, 2023 through on or about January 27, 2023. (*Id.* ¶ 6). Sky King claims that ETMG failed to compensate Sky King for services performed under the Contract, totaling an approximate sum of \$686,000.” (*Id.* ¶ 7).

Sky King brings a single claim for breach of Contract (Count I). In the *ad damnum*, Sky King states that it seeks compensatory damages, “in an amount in excess of the sum of \$686,000, interest allowed by law, attorney’s fees, and such other relief as may be just and proper.” (Compl., at 3).

3. This civil action falls under this Court’s original jurisdiction under 28 U.S.C. §1332 (diversity of citizenship) and is one that may be removed to this Court by this Defendant in accordance with the provisions of 28 U.S.C. § 1441 *et seq.* in that it is a civil action where the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the single properly named Defendant is of completely diverse citizenship to the Plaintiff.

II. PARTIES

4. Plaintiff Sky King Satellite, Inc., is a corporation formed and existing under the laws of the State of Pennsylvania. (Compl. ¶ 1).

5. Defendant ETMG is a foreign limited liability company formed under the laws of the State of Louisiana. (Compl. ¶ 2). ETMG’s sole and managing member is Travis Born, who is a resident of the State of Louisiana. (Declaration of Travis Born, “**Exhibit B**”). *See Audi Performance & Racing, LLC v. Kasberger*, 273 F. Supp. 2d 1220, 1226 (M.D. Ala. 2003) (stating that it is presumed “the state in which a person resides at any given time is also that person’s domicile[,])” (quoting *McDonald v. Equitable Life Ins. Co. of Iowa*, 13 F.Supp.2d 1279, 1281 (M.D. Ala. 1998) (citations omitted)).

III. CLAIMS

6. Sky King's Complaint sets forth a single count for Breach of Contract.

7. Sky King seeks compensatory damages from ETMG in excess of \$686,000 for its claim and for cost and interest. (Compl. at 3.)

IV. THIS REMOVAL IS TIMELY FILED AND PROCEDURALLY PROPER

8. Plaintiff filed its action on February 28, 2023, and Defendant was purportedly served on March 1, 2023. (Receipt of Service, attached as **Exhibit C**). This Notice of Removal is filed within the time required by 28 U.S.C. § 1446(b), as it is filed within 30 days of Defendant's receipt of process.

9. Removal of this action to this Court is proper under 28 U.S.C. § 1446(a) because this Court is the United States District Court for the district and division within which the removed state-court action was pending. Because the Complaint was filed and currently is pending in the Circuit Court of Montgomery County, Alabama, this District is the proper venue for this action upon removal pursuant to 28 U.S.C. § 1441(a).

10. ETMG is the only Defendant named in Plaintiff's action; therefore, there are no additional defendants whose consent is required for this removal.

11. The summons and Complaint received by Defendant ETMG and all other process and orders served upon Defendant are attached hereto as **Exhibit A**.

12. All fees required by law in connection with this Notice of Removal have been paid by ETMG.

13. A copy of this Notice of Removal will promptly be filed with the Circuit Court of Montgomery County, Alabama, as required by 28 U.S.C. § 1446(d). Likewise, a copy of this Notice of Removal shall be served upon all parties or counsel of record.

V. SUBJECT MATTER JURISDICTION

14. This Court has diversity jurisdiction over this case. Pursuant to 28 U.S.C. § 1332 district courts have “original jurisdiction of all civil cases where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between ... citizens of different States.” Defendant moved pursuant to 28 U.S.C. § 1446(b)(1) based on Plaintiff’s initial Complaint as the basis for its Removal as to the amount in controversy. As outlined in more detail below, this case meets both of those requirements.

A. There is Complete Diversity between the Parties to this Action.

15. Pursuant to the Supreme Court’s holding in *Strawbridge v. Curtiss*, 2 L. Ed 435 (1806), there must be complete diversity between the parties in order for a district court to retain subject matter jurisdiction over a case.

16. As set forth above, Plaintiff Sky King is a resident citizen of Pennsylvania. Defendant ETMG is foreign limited liability company headquartered in Slidell, LA, whose sole and managing member is a citizen of the State of Louisiana. (**Exhibit B**). Therefore, there is complete diversity between the parties to this action.

B. The Amount in Controversy Exceeds this Court’s Jurisdictional Threshold.

17. To be removable, the “matter in controversy [must] exceed[] the sum or value of \$75,000, exclusive of costs and interest. . . .” 28 U.S.C. § 1332(a). On the face of the *ad damnum* in the Complaint, the Plaintiff seeks compensatory damages “in excess of the sum of \$686,000, interest allowed by law, attorney fees,” and other relief as granted by the Court. (Compl., at 3).

18. Accordingly, the amount in controversy exceeds \$75,000. *See Mitchell v. Brown & Williamson Tobacco Corp.*, 294 F.3d 1309, 1315 (11th Cir. 2002) (Where plaintiff’s complaint pleads damages in excess of \$75,000, “a removing defendant may rely on the plaintiff’s valuation

of the case to establish the amount in controversy unless it appears to a legal certainty that plaintiff cannot recover the amount claimed.”); *see also Fitzgerald v. Besam Automated Entrance Sys.*, 282 F. Supp. 2d 1309, 1314 (S.D. Ala. 2003) (“Generally, when a sum certain is stated... that assertion is given great deference, in large part, because of the presumption that plaintiff’s counsel has acted in good faith in assessing damages.”).

WHEREFORE, PREMISES CONSIDERED, Defendant ETMG prays that this Honorable Court will take cognizance and jurisdiction of this cause and make any and all orders necessary to affect the removal of this cause from the Circuit Court of Montgomery County, Alabama.

Respectfully submitted this the 31st day of March, 2023.

/s/ G. Lane Knight

One of the Attorneys for Defendant Elite
Technician Management Group

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and service will be perfected upon the following CM/ECF participant(s) electronically and/or electronic mail upon others on this the 31st day March, 2023:

Jerry M. Blevins
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/s/ G. Lane Knight
Of Counsel